

NOTE: The Department of Business Regulation will not be responding to questions received from Interested Parties after 4:00p.m. EST on Tuesday, December 1, 2020.



STATE OF RHODE ISLAND
DEPARTMENT OF BUSINESS REGULATION
Office of Cannabis Regulation
1511 Pontiac Avenue, Bldg. 68-1 Cranston, Rhode Island 02920

Medical Marijuana Program

Compassion Center Application

Questions Asked by Interested Parties

These responses are provided by the Rhode Island Department of Business Regulation (“DBR”), Office of Cannabis Regulation (“OCR”) in response to questions submitted to OCR regarding the application period and process for six (6) new compassion centers noticed on July 17, 2020. These responses to questions are intended to provide guidance in accordance with Rhode Island General Laws § 21-28.6-1 *et seq.* (the “Act”) and the Rules and Regulations Related to the Medical Marijuana Program Administered by the Department of Business Regulation 230-RICR-80-5-1 *et seq.*, as amended (the “Regulations”). **These responses are intended to provide general information only and should not replace a thorough reading of the Act, the Regulations and the application found at the following links:**

<https://rules.sos.ri.gov/regulations/part/230-80-05-1>
[Compassion Center Application](#)

The Department will only be posting responses to **questions or asks for clarification on specifically identified material** that are submitted to **DBR.MMPCompliance@dbr.ri.gov**.

This document is not intended to provide legal advice and should not be used as a substitute therefor. Applicants should consult their legal advisors for advice and guidance regarding the Act and Regulations and to address specific questions and obtain assistance with preparation of an application.

Application Questions and Answers Posted on August 12, 2020

1. **If an applicant has obtained a Special Use Permit, will this have any impact on the application process?**

The Regulations require an applicant to submit evidence that its proposed location complies with local zoning laws in the form of a certificate or letter from an authorized zoning official. A Special Use Permit allowing a medical marijuana compassion center will fulfill this requirement.

An applicant should consult their legal advisors and/or the city/town zoning official regarding applicable local zoning laws, requirements, process and timetable.

Note, a cultivator licensee who applies for a compassion center license will also need to provide evidence that use of its proposed location for compassion center operations complies with local zoning laws.

2. May a licensed cultivator partner with more than one investor/group on an application in the same Zone?

No, a person or entity cannot be an “interest holder” (as defined in the Application and Regulations) with respect to more than one applicant/application for a compassion center license per zone.

3. Will you be “qualifying” the applications on a rolling basis, similar to the cultivation apps or will they all be evaluated at one time at the close of the application period?

The Department’s timetable for review and evaluation of the applications will be dependent upon the number of applications and timeframe in which they are received.

4. I have someone interested in being on my compassion center app; however, he is working at a present dispensary and concerned about being fired if employers find out. How protected is someone in this situation from the public view?

The Department is committed to a fair and transparent licensing process. As stated in the application, the Department is requiring applicants to submit a redacted version of the application for purposes of public records disclosures. An application must include the names of all individual and entity “interest holders” (as defined in the Application and Regulations). Interest holder names will not be redacted.

5. If a town requires a Special Use Permit, is this required in order to apply and be qualified by the DBR? The application mentions being able to operate within 9 months. Please clarify how a SUP requirement by a town affects an application.

If a final zoning approval/certificate is not available upon submission of an application, the applicant must include in its application a letter from an authorized zoning official confirming that a complete zoning application has been received by and is under review by the city/town along with the projected timetable for final decision. Thereafter, if the applicant is selected for licensure in the random lottery, the applicant will have nine (9) months from the date of selection to complete all pre-requisites for issuance of the compassion center license, including providing the Department with confirmation that the city/town has issued a final special use permit or other applicable zoning approval.

An applicant should consult their legal advisors and/or the city/town zoning official regarding applicable local zoning laws, requirements, process and timetable.

6. Can a new compassion center license holder that does not have cultivation operations already start cultivating without first getting a variance?

No, a variance will be required as provided in the Regulations. Except as provided in § 1.6.4(A)(1)(g) discussed below in Question #7, if an applicant is approved and selected for a new compassion center license, the applicant/licensee will not be permitted to possess or cultivate medical marijuana seedlings or plants unless a variance request is submitted to, and approved by, the Department in accordance with § 1.6.4 of the Regulations. An applicant may include in its application information about past cultivation experience and may propose to conduct cultivation activities and/or a licensing of premises for cultivation provided, however, that any such cultivation proposals will not be evaluated or considered by the Department as part of initial licensing. Any such cultivation proposal will only be evaluated and considered by the Department at a later date, as determined by the Department in accordance with § 1.6.4 of the Regulations.

7. Can a new compassion center license holder that already has a cultivation operation at the time their license issues continue their grow operation?

Pursuant to § 1.6.4(A)(1)(g) of the Regulations, if an applicant who already holds a cultivator license under the Act applies and is approved and selected to hold a new compassion center license, the applicant/licensee will be able to continue their previously licensed cultivation operations under the newly issued compassion center license, provided that when the new compassion center license is issued, the cultivator license shall be merged into and surrendered to the Department in accordance with R.I. Gen. Laws § 21-28.6-12(b)(10). Once merged, cultivation of medical marijuana will then be conducted under the new compassion center license subject to the same class size/scope limits of the merged cultivation license.

8. What if the acquisition of that cultivation operation is contingent upon the issuance of the compassion center license?

Any acquisition or similar transaction (conditional or otherwise) pertaining to a compassion center application that, if selected for licensure, will involve a continuation of cultivation operations by merger of an existing cultivator license into the compassion center license must be disclosed in the compassion center application. Copies of all transaction agreements must be provided with the application to confirm the inclusion of the cultivator license. The application must disclose all “interest holders” (as defined in the Application and Regulations) in the compassion center applicant and cultivator licensee. Note, a person or entity cannot be an “interest holder” (as defined in the Application and Regulations) with respect to more than one applicant/application per zone.

Application Questions and Answers Posted on August 21, 2020

9. [W]ould DBR allow a compassion [center] license with multiple cultivator licenses and multiple locations[?]

No. An applicant who is approved and selected for licensure as a compassion center will only be licensed to conduct compassion center operations at the proposed location set forth in the application and, if that applicant already holds a cultivator license under the Act, the applicant will be permitted to continue their existing licensed cultivator operations (same class size/scope limits) at that

previously licensed cultivation location subject to the merger of the cultivation license into the new compassion center license as provided in § 1.6.4(A)(1)(g) of the Regulations.

Note, a compassion center application must include a complete disclosure statement of any material financial interests or control in another Rhode Island compassion center, cultivator, cooperative cultivation, or other marijuana establishment licensee and a plan of divestiture in compliance with §§ 1.2(C)(4)(i) & 1.2(F)(7) of the Regulations.

10. [What is] the amount of capital liquid or line of credit available to the applicant. I have been informed by numerous individuals that this will remain a requirement. I have been told \$2,000,000.00 and I have been told \$3,000,000.00.

A compassion center applicant is required to include a business plan. A business plan should include a detailed description of the amount and source of equity, debt and operating capital, as applicable, for the proposed compassion center. It is the applicant's responsibility to determine the appropriate amount and sufficiency for its business plan.

11. Is it mandatory that if an applicant holds a cultivation license that they must merge the two? If not what section states that? And Is there any language addressing how they would need to conduct business with each other if they do not merge?

If an applicant who is approved and selected for licensure as a compassion center holds a cultivator license, either the cultivator license must be merged into the compassion center license *or* all prohibited financial interests and control in the licensed cultivator must be divested through an approved divestiture plan pursuant to R.I. Gen. Laws § 21-28.6-12(b)(10) and § 1.2(F)(7) of the Regulations.

12. Does an applicant have to submit evidence of the zoning approvals with the application, or, do they have time after the granting of the license, but prior to the issuance, to obtain any necessary zoning approvals?

Evidence of compliance for the location(s) with the local zoning laws in the form of a certificate or letter from an authorized zoning official is required to be submitted with the application pursuant to §1.2(C)(4)(f)(1). See also the response to Question #5 above.

13. Can a consultant be added to a CC application who is a Key Person at a Cultivation?

Pursuant to § 1.2(F)(7) of the Regulations, a compassion center and any interest holders/key persons thereof may not have any "material financial interest or control" in another Rhode Island compassion center, a cultivator, or a licensed cooperative cultivation or vice versa. Accordingly, disclosure of any such interests and a divestiture plan must be made as required in Compassion Center Form 3, Question 4, and Exhibit A.

14. Can a person who is applying for a CC license loan money by way of convertible note or other interest-bearing loan to another applicant?

Not if both applicants apply in the same zone. An Applicant who applies for a compassion center license may only submit one application per zone. A person or entity cannot be an interest holder (as defined in the Regulations) with respect to more than one applicant/application for a compassion center license per zone.

Note also that if a person who is an interest holder on a compassion center application in one zone has or will loan money to a compassion center applicant in another zone, disclosure of such financial interests must be included in the compassion center applications along with a divestiture plan that will have to be approved and completed should both applicants be selected for licensure in the respective zones.

15. Can a person who is a minority owner of a Cultivation, apply for a CC license alone, even if the Cultivation is applying for a CC, if they put in place a divestiture plan?

Yes, as long as the minority owner applicant intends to divest completely from the cultivation license if selected. Disclosure of such interests must be included in the compassion center applications along with a divestiture plan.

16. Can a person who is a minority owner of a Cultivation, apply for a CC license alone, even if the Cultivation is applying for a CC, if they put in place a divestiture plan AND if the Cultivator is not chose[n] can the individual rol[l] the Cultivation into the CC license if they are chosen?

No, if the minority owner applicant submits an application with a plan to divest from the licensed cultivator, the applicant would not be permitted to then merge the cultivation into the compassion center license if selected.

17. I am writing to inquire on whether the regulations and statutes still require that a Compassion Center be a non-profit entity, or if, as the regulations and statutes read now, they may be a for profit entity. I would appreciate any clarification on this matter.

The Applicant/Licensee is and shall be operated on a not-for-profit basis for the mutual benefit of its patients in compliance with The Edward O. Hawkins and Thomas C. Slater Medical Marijuana Act, Chapter 21-28.6 of the Rhode Island General Laws and the regulations promulgated thereunder. Compassion centers shall not be organized, structured or operated in a manner that violates R.I. Gen. Laws § 21-28.6-12(f), or which would cause medical marijuana and medical marijuana products to be priced at unreasonable rates, as determined by DBR, in accordance with R.I. Gen. Laws § 21-28.6-12(d)(2)(iii).

18. Are the Application to run a Compassion Center as follows: \$10,000 non-refundable application fee per application. \$500,000 annual Compassion Center Licensing Fee.

Yes.

19. Are there state residency requirements?

Pursuant to R.I. Gen. Laws § 21-28.6-12(f)(8), all principal officers and board members of a compassion center must be residents of the State of Rhode Island.

20. Do you need to have the real estate lease ready for the application?

For leased property, an applicant can provide a signed lease agreement or a signed letter of intent to lease the premises identified in the application. For owned property, an applicant can provide a recorded deed, a signed purchase and sale agreement or a signed letter of intent to purchase the premises identified in the application. Approval of a compassion center application is confined to the premises identified in the application.

21. How does the lottery system work?

The application selection process will be conducted pursuant to §1.2(E) of the Regulations.

22. On page 29 of the Application for Medical Marijuana Compassion Center License, it states that the Applicant shall be operated on a not-for-profit basis,

Question (1): Do I register the name with the Division of Taxation as an LLC, Non-Profit or both?

Question (2): On the Business Application and Registration document from the Division of Taxation asks "Do you make sales at retail? If we select yes, would the application status be an LLC rather than Non-Profit?"

Question (3): Which application should be filled out when establishing the Applicant as a Non-Profit; (Form 200 Articles of Incorporation) or (Form 40 Articles of Organization)?

Question (4): Besides the Application for Medical Marijuana Compassion Center License, what other registrations, licenses, or applications need to be completed in coordination with the Application for Medical Marijuana Compassion Center License?

Question (5): Which other documents need to be filed with the state that goes [in coordination] with the Application for Medical Marijuana Compassion Center License?

Pursuant to the Act, a compassion center must be a not-for-profit corporation that is subject to the provisions of Chapter 6 of Title 7 of the Rhode Island General Laws, the Rhode Island Nonprofit Corporation Act. Information regarding corporate formation and other requirements pertaining to nonprofit corporations can be obtained from the Office of the Rhode Island Secretary of State. Applicants should contact the Rhode Island Division of Taxation regarding registration and other taxation requirements pertaining to nonprofit corporations and licensed compassion centers. Applicants should consult with their legal advisors regarding these and other legal requirements.

23. If awarded a new dispensary license, would [a licensed cultivator] be allowed under the regulations to make the changes and operate both the cultivation and dispensary?

See response to Question #7.

Application Questions and Answers Posted on September 2, 2020

24. Are multiple applications allowed to be submitted with the same physical location (in the same zone) by different applicants?

Yes, so long as the proposed location complies with all local zoning laws and an applicant can provide a signed lease agreement or a signed letter of intent to lease the premises identified in the application.

25. Are applicants allowed to submit multiple applications in the same zone?

No. A person or entity cannot be an “interest holder” (as defined in the Application and Regulations) with respect to more than one applicant/application for a compassion center license per zone.

26. Are applicants allowed to have "business interests" in other applications whether contractually memorialized or by a silent/tacit agreement?

A person or entity cannot be an “interest holder” (as defined in the Application and Regulations) with respect to more than one applicant/application for a compassion center license per zone. If an individual has business interests in multiple applications (in multiple zones) and more than one application is selected the business interest(s) must be disclosed and a divestiture plan must be included in the application.

At the time of licensure, a person or entity can only have a business interest in one license and any interests in any other licenses must be fully divested.

Application Questions and Answers Posted on September 17, 2020

27. Are there state residency requirements?

See Question 19

28. Do you need to have the real estate lease ready for the application?

See Question 20

29. How does the lottery system work?

See Question 21

30. Can you clarify whether an additional Compassion center would be possible for the towns that already have one (Providence, Warwick, or Portsmouth)? More specifically, the group I represent have some interest in Warwick, RI, so we were not clear on whether that was a town that could be part of the upcoming application process for six additional licenses.

Pursuant to Gen. Laws § 21-28.6-12(c)(3)(vi), nothing herein shall prohibit more than one compassion center being geographically located in any city or town.

31. How long does the applicant need to be a non-profit entity?

Pursuant to R.I. Gen. Laws § 21-28.6-12(f)(1), a compassion center shall be operated on a not-for-profit basis for the mutual benefit of its patients from the time of application through the duration of the license.

32. Under Prohibited Business Relationships [with Medical Practitioners]: Is it permitted for a practitioner who provides written certifications to apply and possibly be awarded a compassion center license provided that practitioner no longer conducts certifications? At what point is a practitioner who writes certifications not allowed to apply for a compassion center?

Yes, so long as from the date of selection and through the duration of the license, the practitioner no longer provides written certifications of qualifying patients' medical conditions in connection with Rhode Island's Medical Marijuana Program in compliance with R.I. Gen. Laws § 21-28.6-12(d)(5)(iv) and § 1.2(H) of the Regulations.

33. I understand that principal officers and board members of a compassion center must be residents of the state of Rhode Island. I am having difficulty finding a definition for what constitutes a "resident" for the purpose of meeting this criteria. Is it sufficient to have a current primary address in Rhode Island? Or are there other requirements for establishing residency for the purpose of these applications?

A resident is domiciled in this state or if not domiciled in this state, maintains a permanent place of abode in this state for a majority of the year.

34. In regards to the dispensary lottery system are you able to purchase more than one ticket, both, in multiple districts and multiple tickets per district?

An Applicant may submit only one compassion center license application per zone. The Department will review and evaluate each application to ensure it satisfies the requirements set forth in the application and the criteria set forth in R.I. Gen. Laws Chapter 21-28.6 and the Regulations. All applicants that are deemed qualified by the Department shall be eligible for selection in accordance with a random selection drawing process set forth in § 1.2(E) of the Regulations.

35. Regarding the new dispensary lottery system is there going to be a preference to individuals who live in state vs out of state, and existing licensed growers vs non licensed newcomers?

No. The Department is committed to a fair and transparent random selection process. The Department will review and evaluate each application to ensure it satisfies the requirements set forth in the application and the criteria set forth in R.I. Gen. Laws Chapter 21-28.6 and the Regulations. All applicants that are deemed qualified by the Department shall be eligible for selection in accordance with a random selection drawing process set forth in § 1.2(E) of the Regulations.

Note that pursuant to R.I. Gen. Laws § 21-28.6-12(f)(8), all principal officers and board members of

a compassion center must be residents of the State of Rhode Island.

36. Is there any progress on a mobile compassion center license? Because this license would not be in a fixed location this would allow the ability to working with community partners in all regions that support Rhode Island's cannabis initiatives throughout the state. With the COVID19 pandemic and with general accessibility issues related to cannabis in RI, I was interested in understanding the regulations behind this opportunity.

The proposed physical location of the Compassion Center is required to be submitted with the application per § 1.2(C)(4)(f) of the Regulations. A mobile compassion center would not meet these requirements.

37. Do applicants need to have Rhode Island ownership? If so, what is the threshold of local ownership?

See Questions 19 and 33.

38. Do applicants need to have real estate identified for the application?

Yes. See Question 20.

Application Questions and Answers Posted on October 20, 2020

39. Does the DBR consider the making of payments by a Compassion Center to an unrelated landlord or other contractual party (who itself, or its ownership is not constituted in whole or part by officers, directors or members of the licensed nonprofit compassion center entity) which payments are calculated based upon a percentage of gross or net revenue, as violative of the Slater Act, the Nonprofit Corporations Act and/or the DBR's own regulations?

Yes. Revenue or profit-sharing agreements or other arrangements whereby a licensed compassion center (a nonprofit corporation) shares revenues or provides compensation/remuneration based upon a percentage of the compassion center's revenues would not be consistent with R.I. Gen. Laws § 21-28.6-12(f) or § 1.6.17 of the Regulations

40. Does the DBR consider the making of payments by a Compassion Center to a corporate landlord or other corporate contractual party (whose ownership is constituted in whole or part by officers, directors or members of the licensed compassion center entity) which payments are calculated based upon a percentage of gross or net revenue as violative of the Slater Act, the Nonprofit Corporations Act and/or its own regulations, where such corporate landlord or other corporate contractual party may, in the future make distributions to its ownership?

See Question 39.

41. Does the certification contained in Form 4, at Paragraph 6 of the Compassion Center License Application, apply to these types of payments in the case of Question 1 and/or 2 above?

Yes.

42. I have a couple of questions about the application for a compassion center license, specifically concerning local (municipal) approval. I understand that 230-RICR-80-05-1.2(C)(4)(f)(1) requires that the applicant submit “evidence of compliance for the location(s) with the local zoning laws in the form of a certificate or letter from an authorized zoning official”. Does the DBR has a specific format of such certification they are looking for in the application, or language that must be included?

The Regulations require an applicant to submit evidence that its proposed location complies with the local zoning laws in the form of a certificate or letter from an authorized zoning official. If a final zoning approval/certificate is not available upon submission of an application, the applicant must include in its application a letter from an authorized zoning official confirming that a complete zoning application has been received by and is under review by the city/town along with the projected timetable for final decision

43. Does the certification or letter require “approval” of a compassion center by the city or town, or is this requirement simply a certification that there are no zoning issues preventing a proposed facility under current zoning?

The certification or letter must provide sufficient evidence that the compassion center location complies with all applicable zoning laws.

44. Is there an ownership threshold for disclosing each individual owner? I represent a public company and it would be impossible to disclose every owner except for those above 5%. I see you use a 5% threshold for Annex B and C. Does this 5% threshold apply also to any owner disclosures under CC Form 2?

No, all interest holders in a compassion center (as defined in the Regulations) must be disclosed in the application; there is no threshold for disclosure of individual owners relative to CC Form 2.

Note that pursuant to R.I. Gen. Laws § 21-28.6-12(f) and § 1.6.17 of the Regulations, a compassion center must be organized and operated on a not-for-profit basis for the mutual benefit of its patients.

45. Does the applicant for a compassion center have to be a resident of Rhode Island?

Pursuant to R.I. Gen. Laws § 21-28.6-12(f)(8), all principal officers and board members of a compassion center must be residents of the State of Rhode Island.

46. Under CC Form 1, an applicant must appoint a Compliance Officer. Pursuant to R.I. Gen. Laws § 21-28.6-12(f)(8), all principal officers and board members of a compassion center must be residents of the State of Rhode Island. The definition of “officer” is not found in the law, so it is unclear whether a compliance officer is consider[ed] an “officer” for purposes of R.I. Gen. Laws § 21-28.6-12(f)(8). Is the “Compliance Officer” required under CC Form 1 also required to be a Rhode Island resident?

No, a compliance officer does not have to be principal officer or a board member of a compassion center and therefore, is not required to be a resident of Rhode Island.

47. I’m looking to inquire [about] some information on the compassion license fee! Is it going to be \$500,000 every time the license gets renewed? Are you still taking applications?

Yes, the license fee and annual renewal fee of the Compassion Center license is \$500,000. The application period for the six new compassion centers is from July 17, 2020 through December 15, 2020.

48. What is the scoring criteria for the application? Is there a scoring metric for each section?

The Department will review and evaluate each application to ensure it satisfies the requirements set forth in the application and the criteria set forth in R.I. Gen. Laws Chapter 21-28.6 and the Regulations. All applicants that are deemed qualified by the Department shall be eligible for selection in accordance with a random selection drawing process set forth in § 1.2(E) of the Regulations.

49. Can you define what “deemed qualified” is? Is it a minimum score or is it all sections are filled out completely? How is an applicant deemed qualified?

An application is deemed qualified if the application satisfies the requirements set forth in the application and the criteria set forth in R.I. Gen. Laws Chapter 21-28.6 and the Regulations.

50. I have a residence in the state of RI (seasonal 6 months) I was a full-time resident of RI for my entire life prior to last October 2019. I wish to be a director of the non-profit corporation that is being created. Can I be a director of a non-profit?

See Question 33.

Application Questions and Answers Posted on October 30, 2020

51. In connection with the requirement in Application Form 2(I)(A)-(E) to disclose “all persons and/or entities with any ownership interest” as well as all persons or entities with managing or operational control (whether they have an ownership interest or not), all persons that hold interests arising under management agreements that afford third-party management or operational control, and if such interest holder is an entity, to list all interest holders in that entity “down to the individual” level, how is an applicant with a management agreement with a publicly-traded company which has a substantial number of small-percentage shareholders to identify the “owners” of that entity to the Department’s satisfaction? Compassion Center License Application, CC Form 4, Section 2B, there is a

threshold of ownership percentage (5% or greater) for listing the ownership of a management entity in Annex B, but this is not reflected in the Form 2 requests for the same information regarding ownership of a management entity. Does this 5% threshold from the Form 4 list also apply to the Form 2 list of ownership interest holders in a management company?

See Question 44.

52. Chapter 6 of Title 7 of the RI General Laws provides for domestic (RI) non-profit corporations and foreign (not RI) non-profit corporations. May an applicant for a compassion center license be organized as a foreign non-profit corporation?

See Questions 19 and 22.

53. If a licensed cultivator is organized as a RI limited liability company, and applies for and is selected for a compassion center license, do the provisions of R.I.G.L. § 21-28.6-12(a) and R.I.G.L. § 21-28.6-12(b)(10) override the requirement that the resulting compassion center be organized as a non-profit corporation, such that the limited liability company may operate the compassion center? If not, does the applicant need to change to a non-profit corporation prior to the time of application, or can it wait until it is selected for a compassion center license and then change to a non-profit corporation before the compassion center license is actually issued?

A compassion center must be a not-for-profit corporation organized under Chapter 6 of Title 7 of the Rhode Island General Laws.

Pursuant to R.I. Gen. Laws § 21-28.6-12(b)(10), if a selected applicant holds a cultivation license in an LLC or a for profit corporation, the cultivation license shall merge into the compassion center license and applicant shall provide the documents required under § 1.2(F)(3)(b)(7) of the Regulations.

An applicant should consult their legal advisors regarding these requirements.

54. Is a special building permit required at application time. We have a letter of support from the town, we have a signed lease from the landlord. Do we have to get a special permit? It is very time consuming and extremely costly?

The Regulations require an applicant to submit evidence that its proposed location complies with local zoning laws in the form of a certificate **OR** letter from an authorized zoning official.

55. If an applicant identifies a specific location within a zone in submitting its application, but after being selected in the lottery is unable to finalize a lease or obtain a special permit or certificate of occupancy at the specified location, will the applicant be permitted to amend its application to identify a substitute location within the same zone?

Pursuant to § 1.2(E)(4) of the Regulations, a selected Applicant may not change or alter its proposed location to another location within the same zone without prior Department approval. A selected Applicant may not relocate or change its proposed location outside of the zone for which they were selected.

See also Questions 12 and 20.

56. Is an applicant allowed to occupy a portion of a building where another licensed cultivator is already operating? The two entities would be separate.

A licensed compassion center is required to have a licensed premise and operations that are separated and distinct from other businesses, operators, and tenants (including other marijuana licensees). If an applicant's proposed premise is in a multi-unit building, the applicant must ensure that it satisfies any city/town requirements in this regard and all security and operational requirements under § 1.6 of the Regulations.

57. May an applicant enter a management services agreement in which the management services fee is based on the number of ounces of cannabis sold by the applicant?

See Question 39.

58. May an applicant enter a management services agreement with another corporate entity that shares the same board members? In other words, would it be okay for both the applicant and management services entity to share the same 3 board members with no other board members?

A compassion center must operate as a not-for-profit corporation pursuant to Chapter 6 of Title 7 of the Rhode Island General Laws. This includes compliance with provisions pertaining to directors including RIGL §§ 7-6-22, 7-6-26.1, 7-6-31 and 7-6-32.

An applicant should consult their legal advisors regarding these requirements.

Application Questions and Answers Posted on November 10, 2020

59. The DBR has noted a 9-month window to become operational following the award of a license with some implied flexibility. I was considering applying using raw land as my site where a complete build-out to include the building and all utilities will require more than 9 months. Will an application using raw land be considered or is the scope of work unrealistic based on the Department's needs?

Pursuant to § 1.2(F) of the Regulations, a selected applicant will have nine (9) months from the date of application approval to complete the pre-requisites for issuance of the compassion center license. This includes construction and installation of improvements to the premises and receipt of all final local approvals and permits including zoning, fire and certificate of occupancy. Note that an applicant must include a detailed timeline for initiating operations in its application (see Application – "CC Exhibit C – Business Plan"). If an applicant fails to meet the nine (9) month deadline, the application approval may be rescinded by the Department.

In identifying a proposed location, an applicant should consult their legal and other business advisors as to whether completion of all pre-requisites for licensure within nine (9) months is feasible.

Application Questions and Answers Posted on November 25, 2020

60. [CC Form 4, Section 4(B) requires the applicant to attach as Annex G a “[l]ist of all equipment to be purchased or leased [by Applicant/Licensee] involving compensation/remuneration of [\$100,000] or more [per calendar] year.” Is it acceptable to put N/A if the company will not incur expenses at or above this amount in a full calendar year? Does Payroll or the annual license fee count towards this statement?

As stated in CC Form 4 “Attach separate pages for each Annex, A through H, to CC Form 4. If the information to be provided on any Annex is “none”, put “none” on that Annex page.”

Annex G does not require payroll information or the annual licensing fee.

61. Does the Company need to have a General Contractor preselected prior to submitting an application or can the General Contractor be selected through a competitive bid process after the license is awarded?

The application does not require an applicant to pre-select a construction general contractor. Please note, pursuant to § 1.2(F) of the Regulations, a selected applicant will have nine (9) months from the date of application approval to complete the pre-requisites for issuance of the compassion center license. This includes construction and installation of improvements to the premises and receipt of all final local approvals and permits including zoning, fire and certificate of occupancy. If an applicant fails to meet the nine (9) month deadline, the application approval may be rescinded by the Department.

62. I am aware of the requirement that pursuant to R.I. Gen. Laws § 21-28.6-12(f)(8), all principal officers and board members of a compassion center must be residents of the State of Rhode Island. I am an existing cultivator who is applying for a CC license. One of the owners of our cultivation is domiciled out-of-state. Would this existing owner have to divest, should we be awarded a CC license and proceed to merge the Cultivation license?

Pursuant to R.I. Gen. Laws § 21-28.6-12(f)(8), all principal officers and board members of a compassion center must be residents of the State of Rhode Island. A person who is not a resident of Rhode Island cannot be a principal officer or board member of a compassion center. See also Questions 19 and 33.

63. Would the addition of an investor AFTER the awarding of a CC license be subject to the “variance” Form 4 2 C.

As stated in Part 1, Section E of the application, pursuant the § 1.2(I)(5) of the Regulations, proposed changes to interest holders and key persons require the Department’s approval pursuant to the variance procedure outlined in the Regulations, provided, however, that no variance which affects a majority change in ownership, control, financial interest and/or compensation/remuneration will be approved prior to conclusion of the first year of licensed activities except upon the Department’s determination that public, health, safety or welfare requires such variance.

64. As I read it, [as to] any vendor who derives \$100,000 in revenue from the CC [applicant] would need to disclose all persons who have [an] ownership or financial interest (officers, directors, stockholders of 5% or more, LLC managers or members, and/or partners) in or operations or managerial control over the management company. This would include cultivators [that] we would be purchasing cannabis from, as well as packaging supply companies and security companies, and others. Do you require all info on ownership of those potential vendors?

The application does not require an applicant to provide ownership information as to any Rhode Island cultivator licensee from whom the applicant will purchase medical marijuana or as to a packaging supply or security company from whom the applicant will purchase other goods or services. Rhode Island cultivator licensees provide their ownership information in their Form 2 licensing disclosures to the Department.

Note, the disclosure of ownership required under Section 2(B) and 2(C) of CC Form 4 is as to any management company that will have operational or managerial control of the applicant/licensee.

65. While I am aware that a Management Agreement cannot be “bonus based,” can it set discounted fees should revenue projections fall below expectations?

See Questions 17, 22 and 39.

66. Can a Member of the NFP Board [Not for Profit Board] be employed in any capacity for the CC, or be employed by the Management company?

Applicants should consult with their legal advisors regarding employment and other legal requirements pertaining to nonprofit corporations.

67. The application requires a Letter of Good Standing from the State of Rhode Island. As the compassion center is domestic non-profit in Rhode Island, it does not have a tax return filing requirement for RI. Thus, requesting a letter of good standing under the “tax status” option seems inappropriate because there is no filing requirement. There is no other option on the RI LOGS form that seems suitable to receive a certificate of good standing under these circumstances. If you would happen to have an answer on how we could best satisfy this requirement, I would really appreciate your guidance on this matter.

CC Form 1 includes a Taxpayer Status Affidavit from the applicant and CC Form 4, Section 1(C), requires the applicant to provide a Certificate of Good Standing from the Rhode Island Secretary of State. The application does not require a Letter of Good Standing from the Rhode Island Division of Taxation.

Note, pursuant to R.I. Gen. Laws § 44-67-4 of the Compassion Center Surcharge Act, every compassion center is required to file monthly returns with the Rhode Island tax administrator. Compassion centers are also required to comply with the sales tax collection and other requirements set forth in Chapter 44-18 of the Rhode Island General Laws, the Sales and Use Tax Act.

Applicants should consult with their tax advisors regarding tax requirements pertaining to compassion centers.

68. Does the DBR consider the making of payments by a Compassion Center to an unrelated contractual party (who itself, or its ownership is not constituted in whole or part by officers, directors, or members of the licensed nonprofit compassion center entity) where payments are calculated based upon a fixed fee or licensing fee per product sold, with different fees per category to reflect input value, violative of the Slater Act, the Nonprofit Corporations Act and/or the DBR's own regulations? To be clear, this is not a revenue-sharing agreement based on a percentage of the revenues.

See Question 66.

69. Can a management company that provides vendor services to a compassion center have an out of state CEO?

Yes, provided that pursuant to R.I. Gen. Laws § 21-28.6-12(f)(8), all principal officers and board members of the *compassion center* must be residents of the State of Rhode Island.

70. I was wondering if the paper applications submitted had to have original signatures in the required areas or if a signed copy of the form would be sufficient.

The submitted hardcopy should be the original with the original signatures.

71. Are the resumes that are attached as part of Annex A of Form 4 required to follow the same formatting guidelines as the rest of the application or can they be formatted outside of the 12 point Times New Roman/Calibri font requirement.

Resumes should be in a font and size that is readable but do not have to adhere to the 12 point and Times New Roman/Calibri font requirements.

Application Questions and Answers Posted on December 8, 2020

72. In the regulations, it is required that all "principal officers" be residents of Rhode Island. Could you clarify the positions that qualify as "principal officers?" Are all of these positions required to be filled for each application?

Pursuant to R.I. Gen. Laws § 21-28.6-12(f)(8) all principal officers and board members of a compassion center must be residents of Rhode Island. "Principal officers" are the president, secretary, treasurer, and other officers elected or appointed by the board of directors as described in R.I. Gen. Laws § 7-6-28 of the Rhode Island Nonprofit Corporation Act.

73. Is there a deadline to merge a cultivation license with a compassion center or is it simply prior to a license being awarded to operate? I couldn't find the process for applying to merge a cultivation license. Should I begin by sending a request to the DBR?

Unless the Applicant divests from the cultivator license, the cultivator license must be merged prior to the issuance of the compassion center license pursuant to R.I. Gen. Laws § 21-28.6-12(b)(10).

NOTE: The Department of Business Regulation will not be responding to questions received from Interested Parties after 4:00p.m. EST on Tuesday, December 1, 2020.

Pursuant to § 1.2(F)(7)(b)(3) of the Regulations, the applicant shall provide to DBR a certificate from the Rhode Island Secretary of State as to articles of merger of the cultivator license holder entity into the applicant entity or certified articles of dissolution of the cultivator entity, and such other documents evidencing the merger and/or transfer of assets and operations as required by DBR.

Note, any cultivation license to be merged must be disclosed in the compassion center application.

74. Should an applicant merge a cultivation license into a compassion center license, would a commercial kitchen be allowed at the [compassion center] to make edibles? Would that square footage come out of the square footage of the cultivation?

The manufacturing and processing of medical marijuana products is not considered “cultivation” and will be allowed under the compassion center license regardless of if a cultivation license is merged with a newly issued compassion center license.

The proposed areas where medical marijuana will be stored, processed, packaged, manufactured, and dispensed must be disclosed in the required draft diagram as required on CC Exhibit F (page 44) of the Compassion Center Application.

Please note, that a physical merger of the compassion center and the cultivation facility is not required.

75. Additionally, the same question [Should an applicant merge a cultivation license into a compassion center license, would] a dedicated “weighing room” or “processing room” or “trim room” which would be located in the CC space [be allowed?]

See Question 74.

76. If a company was formed in November of 2020 for this application only, is a LOGS [Letter of Good Standing] still required?

CC Form 4, Section 1(C), requires the applicant to provide a Certificate of Good Standing from the Rhode Island Secretary of State. A Certificate of Good Standing is sometimes also called a Certificate of Legal Existence or a Certificate of Status – see further information at the following link to the Secretary of State’s website:

<https://www.sos.ri.gov/divisions/business-services/order-certificates>

The application does not require a Letter of Good Standing from the Rhode Island Division of Taxation.

See also Question 67.

77. Can a compassion center application include a principals plan to divest interest in a cultivation facility as well as a plan to merge? If so, when does the decision have to be made whether to divest or merge?

Yes, both can be included. The Department must be notified prior to licensure of the decision to divest or merge in accordance with the submitted plans.

78. For a Compassion Center application for a location which requires a special [use] permit under the local zoning laws, is it sufficient to have a letter from the town indicating that the property would qualify for a special [use] permit under their zoning bylaws, or does the applicant actually have to have the final special permit included with the application?

See Question 5.

79. Throughout CC Form 2, all sections for each interest holder include a box that reads: “App submitted?” and gives the option to check yes or no. Can you please clarify what this is referring to?

This box is for Department Use Only and refers to a registry identification (ID) card application being submitted by an individual interest holder in the case of licensure. These individual registry ID card applications will be submitted to the Department after an applicant has been selected for licensure as part of final licensure.

80. What qualifies as a restricted area in regard to [CC] Exhibit B [of the Application]? “The [] compliance plan [must] include[], without limitation, a written description of [Applicant’s policies, procedures], and plan with regard to patient privacy, sales to out-of-state patients, procedures for access to restricted areas ...”?

Restricted areas include, **any** area containing medical marijuana and medical marijuana products and areas where surveillance recording equipment is used and maintained.

81. If an applicant cannot get a final zoning/approval certificate due to the town's requirement for a special use permit, can the DBR please confirm that an applicant will be disqualified if the applicant does not provide a letter from an authorized zoning official that: 1. Confirms that a complete zoning application has been received by and is under review by the city/town. 2. The projected timetable for final decision.

See Questions 5: An Applicant who does not provide the required documentation will be disqualified.

82. Will it be allowable to have Felons on the [nonprofit corporation (NFP)] Board? We would like to focus on social justice.

Pursuant to R.I. Gen. Laws § 21-28.6-12(c)(7) and § 1.4 of the Regulations, all compassion center principal, officers, board members, agents, and volunteers will be subject to a national criminal identification records check as part of their application for a registry ID card. Individual registry ID card applications and records checks will be submitted to the Department after an applicant has been selected for licensure as part of final licensure and reviewed in accordance with the Act and R.I. Gen. Laws § 28-5.1-14.

83. Form 2 Section I A provides “LIST ALL PERSONS AND/OR ENTITIES WITH ANY OWNERSHIP INTEREST IN APPLICANT/LICENSEE (including corporation stockholders, LLC members, and partners if a partnership; this includes parent companies if applicant/licensee is a subsidiary of another entity)”. Since the applicant/ licensee is required by law to be a nonprofit corporation, and since Rhode Island law does not provide for equity ownership of a nonprofit corporation, would the identified “owners” for purposes of this section be, (i) in the case of a nonprofit with a perpetual board, the board of directors and, (ii) in the case of a member-based nonprofit where the members hold the power to appoint and remove directors with or without cause, the members?

Individuals serving on the board of directors and members of the nonprofit corporation applicant must be disclosed. See R.I. Gen. Laws §§ 7-6-15 and 7-6-22. Applicants should consult with their legal advisors regarding these and other corporate matters.

84. Form 2 Section I C provides “LIST ALL PERSONS OR ENTITIES WHO HAVE MANAGING OR OPERATIONAL CONTROL WITH RESPECT TO APPLICANT/LICENSEE, ANY OTHER ENTITIES DESCRIBED IN SECTIONS A OR B, ITS OPERATIONS, THE LICENSE, AND/OR LICENSED FACILITIES (WHETHER THEY HAVE AN OWNERSHIP INTEREST OR NOT)” and Form 2 Section 1 E provides “LIST ALL PERSONS OR ENTITIES THAT HOLD INTEREST(S) ARISING UNDER SHARED MANAGEMENT COMPANIES, MANAGEMENT AGREEMENTS, OR OTHER AGREEMENTS THAT AFFORD THIRD-PARTY MANAGEMENT OR OPERATIONAL CONTROL WITH RESPECT TO APPLICANT/LICENSEE, ITS OPERATIONS, THE LICENSE AND/OR THE LICENSED FACILITIES.” Since a management company is a person or entity having management or operational control with respect to the applicant/licensee, should the management company and its equity holders be listed in both Form 2 Sections 1C and 1E or, just 1E?

If a person or entity falls within both Sections I(C) and I(E) of Form 2, the person or entity should be listed in both sections 1(C) and 1(E).